

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

Claims 1, 6, 8, 9 and 11-15 remain active in the application. Claims 2, 7 and 10 have been withdrawn from consideration.

In response to paragraph 1 of the Office Action, the reference to the Japanese Industrial Standards has been deleted from the specification and claims. Since the relevant data from the cited Japanese Industrial Standards (i.e., temperature, relative humidity and air permeability) has been retained, Applicants respectfully submit that this amendment conforms to the Examiner's requirement to provide actual details of the standards.

The present invention relates to a mask that supplies steam to the nose and throat in order to protect the upper respiratory tract (page 1, lines 5-7). The steam warms and moisturizes the upper respiratory tract so as to provide a variety of therapeutic benefits (page 3, line 24 - page 4, line 6). According to the invention, this steam is provided by a heat generating unit which generates heat via an exothermic chemical reaction of a composition containing a metal powder, salt and water. Applicants respectfully submit that this is not taught by any combination of the cited references.

Claims 1, 6, 8, 9 and 11-15 were rejected under 35 U.S.C. §103 as being obvious over the U.S. patent to Daneshvar in view of the newly cited U.S. patent to Mitra et al (5,890,486). Daneshvar was cited in the last response. It discloses a therapeutic nasal inhaler comprising an enclosure having a pan 24 filled with hot water. Vapor from the hot water can rise to the region of a nose aperture 56 so that the vapor can be inhaled for a therapeutic effect. However, there is no description or suggestion in Daneshvar for generating the vapor using

heat derived from an exothermic oxidation chemical reaction, as is recited in Claims 1 and 15.

The Examiner has therefore cited Mitra et al to teach heat/vapor generation using an exothermic chemical reaction. The Examiner has alleged that it would have been obvious "to have incorporated Mitra's teaching of an apparatus including exothermic chemical reaction... into the invention disclosed by Daneshvar, so as to provide for nasal therapy." However, Applicants respectfully submit that the proposed combination would not, in fact, have been obvious to those skilled in the art at the time of invention, for the reasons set forth below.

As noted above, Daneshvar is directed to a therapeutic nasal inhaler in which a therapeutic vapor is generated and delivered *for inhalation* and contact with the nasal passages. Mitra et al, on the other hand, discloses a nasal dilator — a device which mechanically expands the nasal passages by application of an external force — further having a thermal element which does not generate a vapor for inhalation and contact with nasal passages. As such, Daneshvar and Mitra et al represent examples taken from distinct and non-analogous arts, whose combination would not have been obvious to one skilled in the art at the time of invention.

According to Mitra et al, devices which treat nasal blockage by the application of moisture to the nasal passages through the use of, e.g., inhalers, have not proven satisfactory (column 2, lines 4-8). Mitra et al also describes that conventional nasal dilators "are not generally effective in relieving nasal congestion/blockage, sinus discomfort and pain, and other cold/allergy symptoms" (column 2, lines 29-32) but instead simply mechanically expand the nasal passages. Mitra et al therefore proposes adding a thermal element to a nasal dilator, the thermal element comprising an exothermic composition in combination with a truss member applied to the nose for mechanically expanding the nasal passages.

Mitra et al thus recognizes that there are multiple *distinct* techniques available for relieving nasal congestion. These include inhalers which moisturize the air entering the nasal passages themselves, and external devices (nasal dilators) which are applied externally and do not treat the air being inhaled into the nasal passages. It is clear that Daneshvar is directed to the former type, whereas the heating element of Mitra et al is directed to a modification of the latter type of device.

Applicants respectfully submit that those skilled in the art would not have been motivated by the heating element of Mitra et al to have used an exothermic chemical composition to heat the water in the pan 24 of Daneshvar so as to create the inhalation vapor, *since the heating element of Mitra et al does not create a vapor which is to be inhaled*. The Examiner has alleged that such a motivation would be present "to provide for nasal therapy. " *But there would have been no reason for those skilled in the art to have expected that the nasal therapy of Daneshvar would be enhanced by a modification taken from Mitra et al.* Since Daneshvar provides nasal therapy by generating steam which is inhaled by the user, those skilled in the art would have looked to other *steam generating techniques* for a suggestion to modify Daneshvar. Those skilled in the art would not have expected that a heating element for an external nasal dilator, which does not generate steam and which is not

used for heating a fluid to be inhaled, should be relied upon as the heating element for creating the steam to be inhaled in Daneshvar. Moreover, the mere fact that both Daneshvar and Mitra et al are broadly in the field of "nasal therapy" would not render their combination obvious since Mitra et al makes clear that those skilled in the art viewed inhalers as being distinct from external dilators.

Since Claim 1 is patentable, it is respectfully requested that Claims 2, 7 and 10 be included in any patent issuing from the application.


Applicants therefore respectfully submit that the present application is in a condition for allowance and request an early Notice of Allowability.

Respectfully submitted,

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